

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

Natera, Inc.,

Plaintiff,

v.

Progenity, Inc.,

Defendant.

Civil Action No. 6:20-cv-00532-ADA

JURY TRIAL DEMANDED

JOINT CLAIM CONSTRUCTION STATEMENT

Pursuant to the Amended Joint Proposed Scheduling Order (Dkt. 48), Plaintiff Natera, Inc. and Defendant Progenity, Inc. hereby submit this Joint Claim Construction Statement regarding the six asserted patents in this case: U.S. Patent Nos. 9,228,234 (“the ’234 patent”)¹, 9,424,392 (“the ’392 patent”), 10,227,652 (“the ’652 patent”), 10,240,202 (“the ’202 patent”), 10,266,893 (“the ’893 patent”), and 10,522,242 (“the ’242 patent”).

I. AGREED CLAIM CONSTRUCTIONS

Claim Term	Agreed Construction
“multiple loci” ’652 patent, Claim 1 ’202 patent, Claim 1	“at least 70 loci”
“chromosome segments” ’893 patent, Claim 1	“a section of a chromosome that can range in size from one base pair to the entire chromosome”
“a plurality of polymorphic loci” ’242 patent, Claim 1	This term has its plain and ordinary meaning and need not be construed. ²

II. DISPUTED CLAIM TERMS

A. The ’392, ’652, and ’202 patents: “the amount(s) from step (a)” / “the measured amounts of genetic material”

Claim Term and Number(s)	Natera’s Proposed Construction	Progenity’s Proposed Construction
“the amount from step (a)” ’392 patent, Claims 1 and 11	This term has its plain and ordinary meaning and need not be construed.	“all of the amounts from step (a) as measured”
“the amounts from step (a)” ’652 patent, Claim 1		
“the measured amounts of genetic material” ’202 patent, Claim 1		

¹ The parties do not propose any terms for construction for the ’234 patent.

² The parties reached agreement on this construction following submission of the claim construction briefs.

B. The '893 patent: "the chromosome segments"

Claim Term and Number(s)	Natera's Proposed Construction	Progenity's Proposed Construction
"the chromosome segments" '893 patent, Claim 1	This term has its plain and ordinary meaning and need not be construed.	"all of the chromosome segments obtained from the maternal blood sample"

C. The '242 patent: "the measured genetic data"

Claim Term and Number(s)	Natera's Proposed Construction	Progenity's Proposed Construction
"the measured genetic data" '242 patent, Claim 1	This term has its plain and ordinary meaning and need not be construed.	"all of the genetic data as measured"

Dated: February 24, 2021

/s/ Keeley I. Vega

Karen I. Boyd (*pro hac vice*)
California Bar No. 189808
Keeley I. Vega (*pro hac vice*)
California Bar No. 259928
Robert J. Kent
California Bar No. 250905
TURNER BOYD LLP
702 Marshall St., Suite 640
Redwood City, CA 94063
Telephone: (650) 521-5930
Facsimile: (650) 521-5938
boyd@turnerboyd.com
vega@turnerboyd.com
kent@turnerboyd.com

Stephen M. Hash
Texas Bar No. 24012800
BAKER BOTTS L.L.P.
98 San Jacinto Blvd, Suite 1500
Austin, TX 78701
Telephone: (512) 322-2587
Facsimile: (512) 322-3687
stephen.hash@bakerbotts.com

Elizabeth Durham Flannery
Texas Bar No. 24045815

BAKER BOTTS L.L.P.

One Shell Plaza
910 Louisiana Street
Houston, TX 77002
Telephone: (713) 229-1234
Facsimile: (713) 229-1522
liz.flannery@bakerbotts.com

Attorneys for Plaintiff Natera, Inc.

/s/ Nicole Stafford

Nicole Stafford (nstafford@wsgr.com)
TX State Bar No. 24002991

WILSON SONSINI GOODRICH & ROSATI P.C.

900 S. Capital of Texas Hwy
Las Cimas IV, Fifth Floor
Austin, TX 78746
Telephone: (512) 338-5400
Fax: (512) 338-5499

Michael Sommer (msommer@wsgr.com)
WILSON SONSINI GOODRICH & ROSATI P.C.
1301 Avenue of the Americas, 40th Floor
New York, NY 10019
Telephone: (212) 999-5800
Fax: (212) 999-5899

Tung-On Kong (tkong@wsgr.com)
Wendy L. Devine (wdevine@wsgr.com)
Kristina Hanson (thanson@wsgr.com)
WILSON SONSINI GOODRICH & ROSATI P.C.
One Market Street
Spear Tower, Suite 3300
San Francisco, CA 94105
Telephone: (415) 947-2000
Fax: (415) 947-2099

Natalie Morgan (nmorgan@wsgr.com)
Sarah A. Siedlak (ssiedlak@wsgr.com)
WILSON SONSINI GOODRICH & ROSATI P.C.
12235 El Camino Real
San Diego, CA 92130
Telephone: (858) 350-2300
Fax: (858) 350-2399

Attorneys for Defendant Progenity, Inc.

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served this 24th day of February 2021 with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(b)(1). Any other counsel of record will be served by electronic mail, facsimile transmission and/or first-class mail on this same date.

/s/ Keeley I. Vega
Keeley I. Vega